IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CRIMINAL JURISDICTION

CRIMINAL APPEAL NO.325 OF 2001

Ramesh Baburao Wagh)
Life Convict No.C-11768)
Circle No.1, Yervada Central Prison)
Pune-411 006.).. APPELLANT
)(Org.Accused)

VERSUS

The State of Maharashtra)
(At the instance of Shantinagar).. RESPONDENT
Police Station))(Org.Complt.)

Mrs.Revati Mohite Dere, Advocate Appointed for the Appellant Accused.

Mrs.U.V.Kejriwal, Additional Public Prosecutor, for the Respondent.

CORAM: V.G. PALSHIKAR AND SMT.NISHITA MHATRE, JJ.
DATED: 12TH APRIL 2005

ORAL JUDGMENT : (PER MHATRE, J.)

. The accused-Appellant in this case has been convicted under Section 302 of the Indian Penal Code (hereinafter referred to as "I.P.C.") for having murdered the victim Chayya who was a minor. Being aggrieved by the judgment and order dated 11th December 2000 of the Sessions Judge, Thane in Sessions Case No.214 of 1998, the Appellant has preferred the present Appeal against the conviction under Section 302 and the sentence of rigorous imprisonment for life awarded to him.

2. With the assistance of the learned Advocate appointed for the Appellant and the learned Additional Public Prosecutor, we have scrutinised the record and the evidence available before us and we have no manner of doubt that the decision appealed against must be upheld.

3. The victim Chayya, according to the prosecution, was going to school along with her sister Tulsa and cousin Manisha. Since it took about 20 to 25 minutes to walk the distance between Saravali village where they resided upto the school in Atgaon Village, they used to start at about 6.30 a.m. from the residence. The prosecution has established that Chayya and Tulsa had been teased by the Appellant on their way to school. They had complained to their father on the same day after he returned home about his eve teasing and wolf whistling. Their father accosted the Appellant on the next day and slapped him in the presence of some other villagers. The prosecution has sought to establish that the Appellant was enraged by this incident and on 15th December 1997 when the girls were on their way to the school, the Appellant overtook them and did not permit them to proceed towards the school. He confronted Chayya and asked her why she had disclosed to her father that he had teased her. The Appellant, who was then

holding a knife, pushed Chayya to the ground and stabbed her about seven or eight times on the chest and abdomen. Manisha and Tulsa who were accompanying Chayya tried to intervene and save Chayya from the clutches of the Appellant. The Appellant instead attacked Manisha. She warded off the blow with the aluminium school bag which she was carrying. As Manisha and Tulsa started shouting for help, the Appellant ran away. Chayya was taken in an autorickshaw to the hospital by their school Peon and a 10th standard student of the school who had rushed out on hearing the girls cry out. The two frightened girls, Manisha and Tulsa returned to the residence of Tulsa and informed Tulsa's father Sambhaji. He then accompanied Manisha and Tulsa to the hospital where they found that Chayya had died. The accused was from the same village and, therefore, Manisha was able to identify him. Sambhaji, the father of the victim, lodged a complaint. However, the Appellant was absconding and was found in Jalgaon District after a few days. The accused was arrested and tried for murder of the minor Chayya. He has been convicted and sentenced to life imprisonment.

4. The prosecution case is based essentially on the testimony of the sole eye-witness Manisha PW2 who is the cousin of Chayya. She has unhesitatingly and vividly described the entire incident. According to her, while she was on her way to school, accompanied by her cousins

Chayya and Tulsa, the Appellant followed them, overtook them and confronted Chayya. He questioned Chayya about her having complained to her father about him. He then pushed Chayya to the ground and stabbed her in the stomach and abdomen about seven to eight times. She has also stated that after mercilessly attacking Chayya, the Appellant tried to attack her. She, however, successfully warded off the blow with the aluminium school bag that she was carrying. The knife was wielded by such force by the Appellant that it pierced a hole in the lid of the aluminium school bag. This witness has also deposed that Chayya was removed to the hospital, in an autorickshaw hailed by Tulsa. The school Peon and a student of the school, who reached the spot on hearing the girls shouting accompanied the victim to the hospital. The Appellant, according to PW2, ran away from the scene.

5. PW3 is the father of the victim. He has disclosed that Chayya had complained to him about the Appellant teasing her and wolf whistling at her when she was on her way to school, about fifteen days prior to the death of Chayya. He has also deposed that he had slapped the Appellant the next day. He has also corroborated the evidence of Manisha PW2 that she and Tulsa returned to his house immediately after the incident and informed him of Chayya being injured. He

has stated that it was after he went to the hospital that he learnt that Chayya had succumbed to the injuries. After this he lodged the complaint against the Appellant.

6. Besides this oral evidence, the knife and the blood stained clothes of the Appellant have been recovered. PW6 is the panch to the recovery panchnama at Exhibit 26 by which the blood stained clothes of the Appellant had been seized on 25th December 1997. He is also the panch for the seizure panchnama for the knife which was recovered on the same day. Both the blood stained clothes and the knife have been recovered at the instance of the Appellant.

7. Taking into consideration the entire evidence on record, especially the testimony of the sole eye-witness PW2, which has been corroborated by PW4 coupled with the recovery of the knife and the blood stained clothes, we have no hesitation in upholding the impugned judgment.

8. The learned Advocate for the Appellant submitted that the recovery of blood stained clothes after ten days cannot be believed since it is impossible that the Appellant would be wearing the blood stained clothes for over ten days i.e. till he was arrested on 25th December 1997. However, the recovery panchnama of the

clothes at Exhibit 26 shows that the Appellant had stated that he had washed the blood stained shirt in the creek and had wiped off the stains from the trousers which he was wearing. Therefore, this submission of the learned Advocate for the Appellant is unsustainable.

9. Criminal Appeal dismissed.

10. The accused was represented before us by an Advocate appointed. The learned Advocate has taken adequate efforts to place the entire case of the accused before us. We, therefore, quantify the fees payable to the learned Advocate appointed for the appellant at Rs.1,000/-.

(V.G. PALSHIKAR, J.)

(SMT.NISHITA MHATRE, J.)